

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Simplify and Improve the Maine Clean Election Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §1015, sub-§3, ¶A, as amended by PL 2007, c. 279, §1, is further amended to read:

A. As used in this subsection, the terms "employer," "lobbyist" and "lobbyist associate" have the same meanings as in Title 3, section 312-A. As used in this subsection, "contribution" has the same meaning as in Title 21-A, section 1012 ~~and includes seed money contributions as defined in Title 21-A, section 1122, subsection 9.~~

Sec. 2. 21-A MRSA §1122, sub-§7, ¶A, as amended by PL 2007, c. 443, Pt. B, §2, is further amended to read:

A. ~~Of \$5 in the form of a check or a money order payable to the fund, signed by the contributor and to \$100 made in support of a candidate;~~

Sec. 3. 21-A MRSA §1122, sub-§8, as amended by PL 2001, c. 465, §3, is further amended to read:

8. Qualifying period. "Qualifying period" means the following period that begins when the candidate files a declaration of intent with the commission in accordance with section 1125 and ends at 5:00 p.m. on April 15th of the election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

A. ~~For a gubernatorial participating candidate, the qualifying period begins November 1st immediately preceding the election year and ends at 5:00 p.m. on April 15th of the election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.~~

B. ~~For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on April 15th of that election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.~~

Sec. 4. 21-A MRSA §1122, sub-§9, as amended by PL 2007, c. 571, §10, is repealed.

Sec. 5. 21-A MRSA §1124, sub-§2, ¶D, as enacted by IB 1995, c. 1, §17, is amended to read:

D. ~~Seed money~~Qualifying contributions remaining unspent after a candidate has been certified as a Maine Clean Election Act candidate upon election day;

Sec. 6. 21-A MRSA §1125, sub-§1, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

1. Declaration of intent. A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission ~~prior to or during~~ to start the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. ~~A participating candidate must submit a declaration of intent within 5 business days of collecting qualifying contributions under this chapter. Qualifying contributions~~ Contributions collected before the declaration of intent has been filed are prohibited and will not be counted toward the eligibility requirement in subsection 3.

Sec. 7. 21-A MRSA §1125, sub-§2, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

2. Contribution limits for participating candidates. Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept ~~contributions~~ funds, ~~except for seed money~~ other than qualifying contributions. ~~A participating candidate must limit the candidate's total seed money contributions to the following amounts:~~ Revenue from the Maine Clean Election Fund may not be used, promised, pledged or applied toward the collection of qualifying contributions. A candidate may not collect or spend contributions after certification as a Maine Clean Election Act candidate except as authorized by the commission under subsection 13. All contributions must be reported according to procedures developed by the commission.

- A. ~~Fifty thousand dollars for a gubernatorial candidate;~~
- B. ~~One thousand five hundred dollars for a candidate for the State Senate; or~~
- C. ~~Five hundred dollars for a candidate for the State House of Representatives.~~

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

Sec. 8. 21-A MRSA §1125, sub-§2-A, as enacted by PL 2007, c. 443, Pt. B, §6, is amended to read:

2-A. Restrictions on qualifying contributions. To be eligible for certification, a participating candidate may collect and spend only ~~seed money~~ qualifying contributions subsequent to becoming a candidate and prior to certification. A participating candidate may not solicit, accept or collect ~~seed money~~ qualifying contributions after certification as a Maine Clean Election Act candidate.

- A. All goods and services received prior to certification must be paid for with ~~seed money~~ qualifying contributions, except for goods and services that are excluded from the definition of "contribution" in section 1012, subsection 2, paragraph B. It is a violation of this chapter for a participating candidate to use fund revenues received after certification to pay for goods and services received prior to certification.
- B. Prior to certification, a participating candidate may obligate an amount greater than the ~~seed money~~ qualifying contributions collected, but may only receive that portion of goods and services that has been paid for or will be paid for with ~~seed money~~ qualifying contributions. A participating

candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.

C. Upon requesting certification, a participating candidate shall file a report of all seed money qualifying contributions and expenditures. If the candidate is certified, ~~any unspent seed money~~ 1/2 of the amount collected in qualifying contributions will be deducted from the amount distributed to the candidate as provided in subsection 8.

Sec. 9. 21-A MRSA §1125, sub-§3, as amended by PL 2007, c. 571, §11, is further amended to read:

3. Qualifying contributions. Participating candidates must obtain qualifying contributions during the qualifying period as follows:

A. For a gubernatorial candidate, at least 3,250 ~~verified registered voters of this State~~ contributors must support the candidacy by providing a qualifying ~~contribution~~ contributions to that candidate in the total amount of \$32,500;

B. For a candidate for the State Senate, at least 150 ~~verified registered voters from the candidate's electoral division~~ contributors must support the candidacy by providing a qualifying ~~contribution~~ contributions to that candidate in the total amount of \$1,500; or

C. For a candidate for the State House of Representatives, at least 50 ~~verified registered voters from the candidate's electoral division~~ contributors must support the candidacy by providing a qualifying ~~contribution~~ contributions to that candidate in the total amount of \$500.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order that is a qualifying contribution ~~in the amount of \$5~~ as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money qualifying contributions and reported in accordance with commission rules. A money order must be signed by the contributor to be a valid qualifying contribution. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the Internet. Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.

It is a violation of this chapter for a participating candidate or an agent of the participating candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining the contributor's signed acknowledgement.

The candidate may retain for use as campaign funds all sums received as qualifying contributions during the qualifying period.

Sec. 10. 21-A MRSA §1125, sub-§4, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

4. Filing with commission. A participating candidate must submit ~~qualifying contributions, receipt and acknowledgement forms; and~~ proof of verification of voter registration ~~and a seed money report~~ to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11. Candidates for Governor shall also submit photocopies of all ~~seed money~~ contributions received by check or money order, bank or merchant account statements of contributions received by credit or debit card and bank or other account statements for the campaign account.

Sec. 11. 21-A MRSA §1125, sub-§5, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

5. Certification of Maine Clean Election Act candidates. Upon receipt of a final submittal of reports of qualifying contributions by a participating candidate, the commission or its executive director shall determine whether the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. ~~Submitted~~Collected the appropriate number and amount of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- D. ~~Not accepted contributions~~Accepted no money or contributions, except for ~~seed money~~qualifying contributions, and otherwise complied with ~~seed money~~clean election restrictions;
 - D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year;
 - D-2. Not been found to have made a material false statement in a report or other document submitted to the commission;
 - D-3. Not had prior requests for certification denied on the basis of substantial violations of this chapter or chapter 13 or certification revoked under subsection 5-A, paragraphs C to G;
 - D-4. Not failed to pay any civil penalty assessed by the commission under this Title, except that a candidate has 3 business days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and
- E. Otherwise met the requirements for participation in this Act.

The commission or its executive director shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible after final submittal of qualifying contributions and other supporting documents required under subsection 4 but no later than 3 business

days for legislative candidates and 5 business days for gubernatorial candidates. The commission and its executive director may take additional time if further investigation is necessary to verify compliance with this Act as long as the commission notifies the candidate regarding the anticipated schedule for conclusion of the investigation.

A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

Sec. 12. 21-A MRSA §1125, sub-§5-A, ¶E, as enacted by PL 2007, c. 443, Pt. B, §6, is repealed.

Sec. 13. 21-A MRSA §1125, sub-§6, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the remaining qualifying contributions and revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues contributed and distributed to a certified candidate from the fund must be used for campaign-related purposes as defined by the commission. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. ~~The commission shall publish guidelines outlining permissible campaign-related expenditures.~~

Sec. 14. 21-A MRSA §1125, sub-§7-A, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

7-A. Deposit into account. The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund and all ~~seed money~~qualifying contributions in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

Sec. 15. 21-A MRSA §1125, sub-§8, ¶E, as enacted by PL 2003, c. 453, §1, is amended to read:

E. For gubernatorial primary elections, the amount of revenues distributed is \$200,000 per candidate in thea contested primary election and \$80,000 for the candidate in an uncontested primary election.

Sec. 16. 21-A MRSA §1125, sub-§9, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

9. Matching funds. When any report required under this chapter or chapter 13 shows that the sum of a candidate's expenditures or obligations, contributions and loans, or fund revenues received, whichever is greater, in conjunction with independent expenditures reported under section 1019-B, exceeds the sum of an opposing certified candidate's fund revenues, in conjunction with independent

expenditures, the commission shall issue immediately to the opposing certified candidate or privately supported candidate who meets the requirements of subsection 9-A an additional amount equivalent to the difference. Matching funds for certified candidates for the Legislature are limited to 2 times the amount originally distributed under subsection 8, paragraph A or C, whichever is applicable. Matching funds for certified gubernatorial candidates in a primary election are limited to 2 times the amount originally distributed under subsection 8, paragraph E. Matching funds for certified gubernatorial candidates in a general election are limited to the amount originally distributed under subsection 8, paragraph F.

Sec. 17. 21-A MRSA §1125, sub-§9-A is enacted to read:

9-A. Private funding options. Before April 15th of an election year, a candidate whose campaign is supported by private contributions may elect to be covered by the matching fund protections of this Act if the candidate agrees to limit and does limit campaign contributions and expenditures to the amount that would be authorized for distribution to the candidate under subsection 8 if the candidate were qualified as a Maine Clean Election Act candidate. A candidate making such an election is entitled to public matching funds under subsection 9 as if the candidate had qualified as a Maine Clean Election Act candidate.

Sec. 18. 21-A MRSA §1125, sub-§13, as enacted by IB 1995, c. 1, §17, is amended to read:

13. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, ~~reduced by any seed money contributions~~, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

Sec. 19. 21-A MRSA §1125, sub-§14, as amended by PL 2007, c. 443, Pt. B, §6, is further amended to read:

14. Appeals. A participating candidate who has accepted contributions or made expenditures that do not comply with the restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions. A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission or its executive director as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing, except that the commission may extend this period upon agreement of the challenger and the candidate whose certification is the subject of the appeal,

or in response to the request of either party upon a showing of good cause. The appellant has the burden of proving that the certification decision was in error as a matter of law or was based on factual error. The commission must rule on the appeal within 5 business days after the completion of the hearing.

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court within 5 days of the date of the commission's decision. The action must be conducted in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that the court shall issue its written decision within 20 days of the date of the commission's decision. Any aggrieved party may appeal the decision of the Superior Court by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after the notice of appeal is filed. After filing the notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of the court. The court shall consider the case as soon as possible after the record and briefs have been filed and shall issue its decision within 14 days of the decision of the Superior Court.

D. A candidate whose certification as a Maine Clean Election Act candidate is reversed on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court finds that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any.

SUMMARY

This bill amends the Maine Clean Election Act and combines seed money and qualifying checks into one composite qualifying system. Qualifying contributions are defined as any amount of \$5 to \$100 payable to the candidate or the campaign. To qualify, the candidate must raise contributions in numbers and amounts as follows:

1. For a gubernatorial candidate, a minimum of 3,250 contributors who contribute a total amount of \$32,500;
2. For a candidate for the State Senate, a minimum of 150 contributors who contribute a total amount of \$1,500; and
3. For a candidate for the House of Representatives, a minimum of 50 contributors who contribute a total amount of \$500.

The number of required contributors remains the same as in present law, but the minimum amount of money required is doubled from \$5 per contributor to what would be an average of \$10 if only the minimum number of contributors were obtained. Each \$5 contribution still counts and contributions up to \$100 are acceptable.

Instead of submitting contributions to the commission, the candidates will submit only the acknowledgement signed by each contributor as evidence of the payment and support. Candidates will retain and use for campaign purposes all amounts collected. Because seed money is abolished and blended into the system for qualifying contributions, all private financial support must come in the form of

qualifying contributions from voters within the candidate's own district. Distributions from the Maine Clean Election Fund are reduced by 1/2 of the qualifying contributions collected.

The qualifying period for any candidate is amended to start whenever the candidate files a declaration of intent. The qualifying period for an unenrolled candidate continues to end on June 2nd of each election year. The corresponding date for a party candidate remains at April 15th.

The bill makes clear that no revenue from the Maine Clean Election Fund may be pledged or applied to the collection of qualifying contributions.

The bill also adds a private funding option for candidates. Before April 15th of an election year, a candidate whose campaign is supported by private contributions may elect to be covered by the matching fund protections of the Maine Clean Election Act if the candidate agrees to limit and does limit campaign contributions and expenditures to the amount that would be authorized for distribution to the candidate if the candidate were qualified as a Maine Clean Election Act candidate. A candidate making such an election is entitled to public matching funds as if the candidate had qualified as a Maine Clean Election Act candidate.